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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

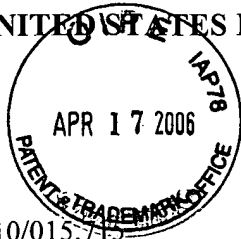
In re application of:

Wei-Qiang Gao, et al.

Application Serial No. 10/015,715

Filed: December 12, 2001

For: **PRO1340 NUCLEIC ACIDS**



) Examiner: Landsman, Robert S.

) Art Unit: 1647

) Confirmation No: 4464

) Attorney's Docket No. 39780-2830 P1C56

) Customer No. 35489

EXPRESS MAIL LABEL NO. EV 765 973 089 US
DATE MAILED: APRIL 17, 2006

CONTINGENT PETITION UNDER 37 CFR §1.78(a)(3)

MAIL STOP PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Dear Sir:

Applicants petition the Commissioner on a contingent basis to accept the benefit of priority to the prior filed non-provisional and PCT applications for the above-identified application, pursuant to 37 CFR §1.78(a)(3).

Applicants have requested reconsideration of the Official Communication mailed on March 28, 2006 stating that Applicants' request for Corrected Filing Receipt would be treated as Petition under §1.181 and the Petition is dismissed.

This Petition is being submitted solely in the event that Applicants request for reconsideration is dismissed.

The above-identified application is a continuation of, and claims priority under 35 USC §120 to, US Application 09/946374 filed 9/4/2001, which is a continuation of, and claims priority under 35 USC §120 to, PCT Application PCT/US00/04342 filed 2/18/2000, which is a continuation-in-part of, and claims priority under 35 USC §120 to, US Application 09/403,297 filed 10/18/1999, now abandoned, which is the National Stage filed under 35 USC §371 of PCT Application PCT/US99/20111 filed 9/1/1999, which claims priority under 35 USC §119 to US Provisional Application 60/101916 filed 9/24/1998.

04/20/2006 TBESHAH1 00000055 081641 10015715

01 FC:1454 1370.00 DA

A first Preliminary Amendment claiming priority to the applications was filed December 12, 2001. A second Preliminary Amendment claiming such priority to the prior-filed applications was submitted on August 29, 2002. Applicants note that the above-identified application was filed on December 12, 2001. Therefore the four month deadline for claiming priority to the prior-filed applications pursuant to 37 CFR §1.78(a)(2)(ii) was April 12, 2002.

Applicants maintain that the first Preliminary Amendment was sufficient to support the claim to priority. However, if the Patent Office determines that this is not the case, Applicants' second Preliminary Amendment clearly supports the priority claim.

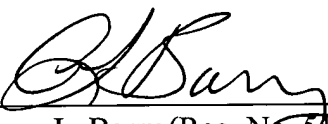
Applicants respectfully submit that the entire delay between the date the claim was due under 37 CFR §1.78(a)(2)(ii) and the date that the second Preliminary Amendment was filed was unintentional.

The Commissioner is authorized to charge any applicable fees for this Petition to Deposit Account No. 08-1641, referencing Attorney's Docket No. 39780-2830 P1C56. Such payment is believed to be in the amount of \$1,370 for the petition fee required by 37 C.F.R. §1.17(t).

Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: April 12, 2006

By: 
Anna L. Barry (Reg. No. 51,436)

HELLER EHRMAN LLP
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4/17/06 4:03 PM (39780.2830)

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FEE TRANSMITTAL

APR 17 2006

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,370.00

Complete if Known

Application Number 10/015,715
Filing Date December 12, 2001
First Named Inventor Wei-Qiang Gao
Examiner Name Robert S. Landsman
Art Unit 1647
Attorney Docket No. 39780-2830 P1C56

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 08-1641(39780-2830P1C56)

Deposit Account Name HELLER EHRMAN, LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 300	2001 150	Utility filing fee	
1002 200	2002 100	Design filing fee	
1003 200	2003 100	Plant filing fee	
1004 300	2004 150	Reissue filing fee	
1005 200	2005 100	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 50	2202 25	Claims in excess of 20
1201 200	2201 100	Independent claims in excess of 3
1203 360	2203 180	Multiple dependent claim, if not paid
1204 200	2204 100	** Reissue independent claims over original patent
1205 50	2205 25	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 120	2251 60	Extension for reply within first month	
1252 450	2252 225	Extension for reply within second month	
1253 1,020	2253 510	Extension for reply within third month	
1254 1,590	2254 795	Extension for reply within fourth month	
1255 2,160	2255 1,080	Extension for reply within fifth month	
1401 500	2401 250	Notice of Appeal	
1402 500	2402 250	Filing a brief in support of an appeal	
1403 1,000	2403 500	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 500	2452 250	Petition to revive - unavoidable	
1453 1,370	2453 1,370	Petition under 37 CFR 1.17(t)	1,370.00
1501 1,400	2501 700	Utility issue fee (or reissue)	
1502 800	2502 400	Design issue fee	
1503 1,100	2503 550	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 790	2809 395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 790	2810 395	For each additional invention to be examined (37 CFR 1.129(b))	
1801 790	2801 395	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 1,370

SUBMITTED BY

Name (Print/Type) Anna L. Barry Registration No. 51,436 Telephone (650) 324-7000
Signature [Signature] Date April 17, 2006

WARNING! Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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